

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

<b>WILLIAM ROY WELCH, Individually</b>	§	
<b>and JERRY SOWELL and JARROD</b>	§	
<b>SOWELL, Individually, and as</b>	§	
<b>Next Friend of JADEN SOWELL,</b>	§	
<b>a minor</b>	§	
	§	
<b>VS.</b>	§	<b>CIVIL ACTION NO.: 2-09-CV-018</b>
	§	
<b>DOREL U.S.A., INC.,</b>	§	
<b>COSCO JUVENILE,</b>	§	
<b>DOREL JUVENILE GROUP INC.,</b>	§	
<b>COSCO HOME AND OFFICE</b>	§	
<b>PRODUCTS, COSCO, INC.,</b>	§	
<b>and JANELLE SOWELL</b>	§	

**DEFENDANT, JANELLE SOWELL'S FIRST AMENDED  
ANSWER TO PLAINTIFFS' FIRST AMENDED COMPLAINT**

COMES NOW, **JANELLE SOWELL**, Defendant, and in response to Plaintiffs' First Amended Complaint files this, its First Amended Answer as follows:

**FIRST DEFENSE**

With regard to the specific allegations contained in Plaintiffs' Original Complaint, Defendant says that it:

Paragraph 1: For reasons as are set out more fully herein, the Defendant, Janelle Sowell, denies that neither Jerry Sowell nor Jarrod Sowell have legal standing to bring this action individually and/or as next friend for Jaden Sowell.

Paragraph 2: Has no reason to deny these allegations.

Paragraph 3: Denies that Jerry Sowell has legal standing to bring this action individually and/or as next friend for Jaden Sowell.

Paragraph 4: Denies that Jarrod Sowell has legal standing to bring this action individually and/or as next friend for Jaden Sowell.

Paragraph 5: Has no reason to deny these allegations.

Paragraph 6: Admits that she is a resident of the State of Louisiana and has been served with process and has filed her answer in this case.

Paragraph 7: Admits that she was driving on SH 7 in Shelby County, Texas with Jaden Sowell. Defendant denies the remainder of the allegations in this paragraph. Defendant is without knowledge sufficient to form a belief as to the truthfulness of the allegations contained within this paragraph pertaining to the Cosco child safety seat.

In answer to the prayer, Defendant denies that Plaintiffs are entitled to any of the relief sought.

#### **DEFENDANT'S AFFIRMATIVE DEFENSES**

1. Defendant, pursuant to Rule 9, Federal Rules of Civil Procedure, specifically denies that neither Jerry Sowell nor Jarrod Sowell have legal standing to bring this action in a representative capacity as next friend for Jaden Sowell. The child, Jaden Sowell, is a resident of the State of Louisiana. At the time of the filing of this lawsuit, pursuant to Judgment of the 11<sup>th</sup> Judicial District Court, DeSoto Parish, Louisiana, Rhonda B. Moton, the maternal grandmother of Jaden Sowell had the legal care, custody and control of Jaden Sowell and pursuant to Louisiana Civil Code, she is the only person with the authority to represent the child in legal matters.

2. Defendant further pleads that any cause of action which Jaden Sowell may have had against the Defendant has been released by settlement agreement dated August 29, 2008.

3. Defendant further pleads to the extent Plaintiffs seek recover for medical bills, expenses and services that were allegedly incurred by Plaintiffs, but were never charged to or paid for by Plaintiffs, this Defendant says that Plaintiffs are not entitled to recover these amounts pursuant to Texas Civil Practice and Remedies Code §41.0105.

4. Alternatively, Defendant would show the court that the accident in question was solely the result of the acts and/or omissions of parties and persons over which this Defendant exercised no control, either contractually or otherwise.

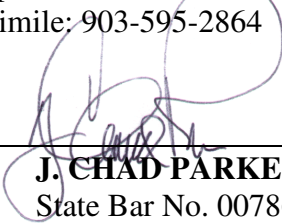
5. Further pleading and in the alternative, Defendants would show that any award of pre-judgment interest on future damages would deprive Defendants of their property and rights without due process and course of law, and further would constitute an excessive and unreasonable fine or penalty prohibited by the United States and Texas Constitutions.

6. Defendant specially excepts to Plaintiffs' Original Complaint in that it fails to allege a specific dollar amount of monetary loss suffered by Plaintiffs. Because of this failure to adequately provide notice of Plaintiffs' specific complaints, Defendant is unable to prepare her defenses herein. Defendant requests that this court require Plaintiffs to re-plead. In the event that Plaintiffs fail to do so, Defendant requests that this court strike Plaintiffs' damages.

WHEREFORE, PREMISES CONSIDERED, Defendant, **JANELLE SOWELL**, prays that Plaintiffs take nothing by reason of their suit herein, that it be awarded reasonable attorneys fees, costs of court and litigation expenses, and that Defendant be allowed to go hence with its costs without delay.

Respectfully submitted,

**THE PARKER FIRM, P.C.**  
3808 Old Jacksonville Road  
Tyler, Texas 75701  
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By:   
**J. CHAD PARKER**  
State Bar No. 00786153  
**W. TODD PARKER**  
State Bar No. 00794424

**ATTORNEYS FOR DEFENDANT,  
JANELLE SOWELL**

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the above and foregoing instrument has been served upon all known counsel of record in accordance with the requirements of the Federal Rules of Civil Procedure on this 2<sup>nd</sup> day of March, 2011.

  
**J. CHAD PARKER**